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FEDERAL ELECTION COMMISSION
Washington, DC 20463

SENSITIVE

April 7, 1999

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Thomas J. Wong, Esq.
Devens, Lo, Nakano, Saito, Lee & Wong
220 S. King Street, Suite 1600
Honolulu, Hawaii 96813

RE: MUR 4594
Longevity International
Enterprises Corporation

Dear Mr. Wong:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, on December 3, 1996, the Federal Election Commission found reason to believe that your client, Longevity International Enterprises Corporation, violated 2 U.S.C. § 441e, and instituted an investigation in this matter.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred.

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten copies if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of the General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

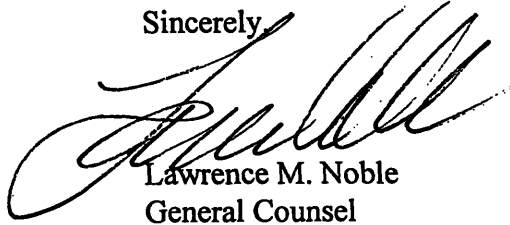
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A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

Should you have any questions, please contact Nancy E. Bell, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "L. M. Noble", written over the typed name and title.

Lawrence M. Noble
General Counsel

Enclosure
Brief

21 "04" 402 "5067

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	
Longevity International Enterprises Corporation)	MUR 4594
)	

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

This matter was generated from information ascertained by the Federal Election Commission ("Commission") in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2). The Commission found reason to believe that Longevity International Enterprises Corporation ("Longevity"), violated 2 U.S.C. § 441e. The Office of General Counsel has conducted an investigation into this matter and is now prepared to recommend a finding of probable cause to believe.

II. ANALYSIS

A. The Law

The Federal Election Campaign Act of 1971, as amended, ("the Act"), prohibits a foreign national from making a contribution of money or anything of value in connection with an election to any political office, either directly or through any other person. 2 U.S.C. § 441e. A thing of value would necessarily include all in-kind contributions such as the provision of any goods or services at a charge which is less than the usual and normal charge for such goods or services. The amount of the in-kind contribution would be the difference between the usual and normal charge for the goods or services at the time of the contribution and the amount charged

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the political committee. *Cf.* 2 U.S.C. § 431(8)(A)(i). It is also unlawful under the Act for any person to solicit, accept, or receive a contribution from a foreign national.¹ 2 U.S.C. § 441e(a);

11 C.F.R. § 110.4(a). Section 441e defines a foreign national as:

- (1) a foreign principal, as such term is defined by section 611(b) of title 22, except that the term "foreign national" shall not include any individual who is a citizen of the United States; or
- (2) as an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined at section 1101(a)(20) of title 8.²

The Commission's regulations include the following prohibitions at 11 C.F.R. § 110.4(a):

- (1) A foreign national shall not directly or through any other person make a contribution, or an expenditure, or expressly or impliedly promise to make a contribution, or any expenditure, in connection with a convention, a caucus, or a primary, general, special or run-off election in connection with any local, State, or Federal public office.
- (2) No person shall solicit, accept, or receive a contribution as set out above from a foreign national.
- (3) A foreign national shall not direct, dictate, control, or directly or indirectly participate in the decision-making process of any person, such as a corporation, labor organization, or political committee, with regard to such person's Federal or nonfederal election-related activities, such as decisions concerning the making of contributions or expenditures in connection with elections for any local, State, or Federal office or decisions concerning the administration of a political committee.

¹ One district court recently held the foreign national prohibition at Section 441e applicable only to "contributions" for federal elections. *See US v. Trie*, Crim. No. 98-0029-1 (PLF) (D.D.C. Oct. 9, 1998). However, this lower court opinion failed to consider either the legislative history establishing the provision's broad scope or the Commission's consistent application of the prohibition to non-federal elections. *See* 11 C.F.R. § 110.4(a)(1); *see, e.g.* MURs 2892, 3460, 4398 and 4638.

² For the purposes of 22 U.S.C. § 611(b) a foreign principal includes:

- 1) a government of a foreign country and a foreign political party;
- 2) a person outside of the United States, unless it is established that such person is not an individual and is organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States and has its principal place of business within the United States; and
- 3) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.

For the purposes of 8 U.S.C. § 1101(a)(20), "[t]he term 'lawfully admitted for permanent residence' means that status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed."

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Section 441e squarely prohibits a foreign national (including a foreign national corporation) from making a political contribution through "any person." 2 U.S.C. § 441e; 11 C.F.R. § 110.4(a)(3). *See* A.O. 1983-31. Additionally, the Commission has not permitted contributions by a domestic corporation where the source of funds is a foreign national, reasoning that this essentially permits foreign nationals to make contributions indirectly when it could not do so directly. *See, e.g.* A.O.s 1989-20, 1985-3, 1981-36, 1980-111, 1980-100, 1978-21, 2 Fed. Election Camp. Guide (CCH) ¶ 5970 (Oct. 27, 1989); 1985-3, 2 Fed. Election Camp. Guide (CCH) ¶ 5809 (March 4, 1989); and 1981-36, 2 Fed. Election Camp. Guide (CCH) ¶ 5632 (Dec. 9, 1981). *See also*, A.O. 1992-16, 2 Fed. Election Camp. Guide (CCH) ¶ 6059 (June 26, 1992).

When the funds in question are from a domestic corporation with foreign national ownership, the Commission also looks at the nationality of the decision-makers. No foreign nationals may participate in decisions made by domestic corporations to contribute, including in-kind contributions, to either Federal or nonfederal campaign committees and candidates nor may the decisions of a domestic corporation be dictated or directed by any foreign nationals. *See* MUR 2892 (Royal Hawaiian Country Club and Y.Y. Valley Corp.) and A.O. 1981-36. *See also* A.O.s 1992-16, 1989-29, 1989-20, 1985-3, and 1981-36. Moreover, the Commission has ruled that foreign national corporate board members must abstain from voting on matters including the selection of individuals to exercise decision-making authority regarding contributions and expenditures. *See* MUR 3460 and A.O. 1990-8.

Accordingly, it is clear that the Act prohibits contributions from foreign nationals, as well as contributions from domestic corporations where either the funds originate from a foreign

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national source or foreign nationals are involved in the decision concerning the making of the contribution.

B. The Investigation

This matter involves the acceptance of in-kind contributions by Frank Fasi, the former mayor of the City and County of Honolulu, and Friends for Fasi, the campaign committee for Frank Fasi, from 1984 through 1996, in the form of reduced rental costs for office space at the Chinatown Cultural Plaza Shopping Center ("Cultural Plaza"), the owner of which, Longevity, is mainly composed of foreign nationals or has been influenced and/or controlled by foreign nationals. Pertinent investigation generated information fulfilling the elements of the Section 441e violation will be analyzed in two thematic sections. Each will be discussed in turn.

1. Contribution In Connection With An Election

On January 13, 1998, staff conducted a telephone interview with a witness, a former employee of Longevity and manager at the Cultural Plaza, in the above-captioned matter. During the interview, staff was provided with information which appears to confirm the involvement of Longevity in an in-kind contribution 441e scheme. Most significantly, the witness stated that he believed 1) the Cultural Plaza to be owned by a foreign national entity and/or foreign national persons, 2) Frank Fasi's rent was a "special case," and 3) Longevity thought that a reduced rent for Fasi would produce advantages from Fasi as the Mayor. The witness also stated that after Fasi moved into the Cultural Plaza, the Cultural Plaza was placed on a city bus route, received a bus stop, and police patrols in the area increased. In sum, he asserted that Fasi being Mayor at the time influenced the amount that Fasi paid for rent at the Cultural Plaza.

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After numerous attempts by the Commission, spanning several months, were made to obtain an affidavit from the aforementioned witness, this Office finally received one whose substance differs greatly from the interview which occurred earlier. While a signed and sworn affidavit would typically impart the appearance of credibility, the contrast between the content of the interview with the witness and the eventual document produced by the witness suggests otherwise. For example, the affidavit fails to mention several of the witness' aforementioned assertions regarding Fasi's occupancy at the Cultural Plaza, and, in fact, attempts to disavow many of his oral statements. For instance, it implies that Fasi's special monthly rent was based upon a month-to-month tenancy arrangement and structural defects in the particular section of the building that Fasi occupied, rather than any perceived benefit that would accrue from Fasi's tenancy. Additionally, the sworn affidavit indicates that the benefits incurred by the Cultural Plaza during Fasi's term in office occurred because of the "growing needs of the community" rather than Fasi's influence. As such, these tailored statements, in contrast with the immediacy of information provided by the witness in the interview, as well as the subsequent difficulties and obstacles the Commission encountered from the witness and his counsel while attempting to obtain said affidavit, leads to the conclusion that the affidavit should be viewed in a less credible light than the original interview, especially when considered in conjunction with the following evidence.

The investigation has confirmed that Longevity has been registered as a domestic corporation since February 21, 1979, and that seven of eight of the directors of the corporation in 1995 were Taiwanese nationals. Longevity has been the titled owner of the Cultural Plaza since May 11, 1979. In 1981, Frank F. Fasi entered into a lease for an office and storage facility in the Cultural Plaza. Mr. Fasi and Friends for Fasi utilized this office space as a campaign office and

storage space during his campaigns for Governor in 1982, Mayor in 1984, Mayor in 1988, Mayor in 1992, Governor in 1994, and Mayor in 1996.

Friends for Fasi's expenditure reports from January 1990 through November 1996 indicate that each monthly rental payment to Longevity was paid in full by Fasi's campaign committee. Indeed, Fasi vacated the office space approximately a week after suffering his second electoral defeat,³ a primary bid for Mayor of Honolulu.⁴

Mr. Fasi had a written lease with Longevity from January 30, 1981 through February 29, 1984 with an unexecuted option to renew for two years. After his written lease expired, Fasi was a month-to-month tenant from March 1, 1984, the first year he was elected Mayor of Honolulu, until he vacated the premises in November 1996 soon after being notified by Rex Fa ("Fa"), the new General Manager of the Cultural Plaza, that he had to adjust Fasi's rent schedule. Correspondence between Fasi and Fa proposed that the "going rate" on the space Fasi occupied amounted to over \$6,000 per month during 1995-1996. Finally, during the course of 1996, Friends for Fasi began paying a discounted rate of \$3,500 per month, agreed upon by Longevity only after the intervention of a Mr. C.T. Wong (a director and shareholder of Longevity) for space which Fasi had up to that point paid only \$800.

The original written lease indicates that Fasi paid a base rent of \$1,546.65 per month for 3,437 feet. No written lease exists for Fasi's month-to-month tenancy, but according to information available to the Commission, Fasi orally agreed to pay \$800 per month for "the space" beginning in 1984. According to Longevity, there were "no such [other] oral leases."

³ Fasi was also defeated in the 1994 Gubernatorial General Election.

⁴ The 1996 Honolulu Mayoral Primary Election was held on September 21, 1996. Fasi informed the management at Longevity on October 1, 1996 that he was vacating the space at the Cultural Plaza.

Based on early investigation by the Commission, it appeared that Fasi's rental rate of \$800 per month was for approximately 2,700 square feet of space, or \$.29 per square foot. Information subsequently ascertained by the Commission confirms that "the space" that Fasi actually occupied from 1984 through 1996 was the entire previous rental space of 3,437 square feet which, for \$800 per month, would equal approximately \$.23 per square foot.

Utilizing a conservative rental rate for the time period 1994 through 1996⁵ in Honolulu, the gross yearly charge representing the ordinary course of business with regard to the Cultural Plaza would have been at least \$61,866.00 ($(\$1.50 \times 12) \times 3437$) rather than the gross amount, \$9,486.12 ($(\$0.23 \times 12) \times 3437$), charged to Mr. Fasi and Friends for Fasi by Longevity.⁶ Applying these figures to the almost three years at issue, the amount in violation for 1994 - 1996 could equal approximately \$160,000.⁷

Longevity asserts that the rent paid by Fasi was within the range of reasonable market rates for the space leased in the relevant time period. Longevity's subpoena response asserts that the rental amount, \$800 per month from March 1984 through 1996, was consistent with market rates for that property. Further, Longevity claims that the office classifications discussed in the Commission's Factual and Legal Analysis are in error, the rent in the Cultural Plaza varies, and several tenants of the Cultural Plaza currently and historically have paid very low or effectively no rent for their space. Longevity's response, though, fails to provide an alternative system of

⁵ The statute of limitations at 28 U.S.C. § 2462 appears to bar obtaining civil penalties for violations that are more than five years old. See *FEC v. Williams*, 104 F.3d 237 (9th Cir. 1996), *cert. denied*, 118 S.Ct. 600, (Dec. 8, 1997). Other courts, including the Eleventh Circuit, have held that Section 2462 does not bar injunctive and/or declarative relief. See *United States v. Banks*, 115 F.3d 916, 919, n.6 (11th Cir. 1997); *FEC v. The Christian Coalition*, 965 F. Supp. 66 (D.D.C. 1997); *FEC v. NRSC*, 877 F. Supp. 15, 20-21 (D.D.C. 1995). Thus, the Commission may be able to obtain injunctive and/or declarative relief for violations in this matter that occurred prior to the past five years.

⁶ See the discussion of rental prices in the Cultural Plaza, *infra* pp. 7-8 and Attachment I, and the discussion of rental costs in Honolulu according to the Comparative Statistics of Industrial and Office Real Estate Markets.

⁷ *Supra* note 5.

office classification for the twelve year period in which Mr. Fasi occupied space in the Cultural Plaza for \$800.00 a month.

To further the assertion that the rent in the Cultural Plaza varies, Longevity's initial document production provided copies of leases for three "charitable" organizations which occupied, for \$1.00 per year, units in the Cultural Plaza which were of comparable size and location to the space leased by Fasi.⁸ The Commission's initial subpoena to Longevity requested that they "[s]tate whether, at the time of the initial lease agreement, there were other units in [the] Cultural Plaza which were comparable in size and location to the space leased by Fasi." Assuming that the three leases provided represent a select class of lessees, the response from Longevity raises the inference that Fasi was provided with a rent subsidy which Longevity likened to a charitable contribution.

Leases for commercial entities renting space similarly sized to Fasi's at the Cultural Plaza, disclosed in Longevity's second document production, further justify the inference of a rent subsidy to Fasi. As demonstrated in Attachment 1, the differential between the minimum rent per square foot by the six commercial entities and Fasi is significant. For the years 1985 through 1996 the "base" amounts paid ranged from a low of \$0.30 per square foot for First Hawaiian Properties in 1985 to a high of \$1.41 per square foot in 1995 for the State of Hawaii, Department of Labor/Department of Human Services.⁹ As illustrated by Attachments 1 & 2, space within close proximity to Fasi's suite commanded "base" rental prices ranging up to \$1.41

⁸ The three charitable organizations include the Hsing Chun Hui Memorial Foundation, the Chinatown Cultural Service Center, Inc., and the Chee Kung Tong Society.

⁹ Cultural Plaza tenants are typically assessed, in addition to the "base" rent, a prorated common area maintenance fee, real property tax, and 4.16% general excise tax on the total amount due. These additional assessments render the total/gross rent as an amount almost double the "base" rent.

per square foot, thus dismissing any notion that an undesirable locale could have contributed to his precipitously low "gross" rental payment from 1984 through 1996.

There exist other inconsistencies associated with the time period in which Fasi was a tenant at the Cultural Plaza which Longevity has failed to explain or clarify. First, it remains implausible that then current market conditions would justify that Fasi's rent was lowered by nearly one-half (from \$1,546.65 to \$800.00) in 1984 at the termination of his written lease and the commencement of his oral agreement for the same rental space. Further, the unusual fact exists that the amount of Mr. Fasi's monthly rent for this commercial space with no written lease remained unchanged, neither increasing nor decreasing, over a span of twelve years.

Longevity's initial response indicated that "[s]ince Mr. Fasi vacated the space in November 1996... [t]he 'base' rent paid by the tenant in Fasi's previous space is \$1.00 per square foot." In fact, the rental figures for leases commencing in Fall 1995 indicate a minimum base rent of \$1.20 per square foot, in addition to the tenant being assessed a prorated common area maintenance fee, real property tax, and a 4.16% general excise tax on the total amount due. The sum of these figures equals a rent of almost \$2.00 per square foot. Therefore, the \$6,000 rent proposed by Longevity's management to Fasi in 1995, along with the rent paid by the tenant who has taken over Fasi's space, represents a great increase over the rate paid by Fasi.

The aforementioned information supports statements asserted by the witness, discussed *supra* pp. 4-5, that Fasi's rent was a "special case." Moreover, additional information provided by Longevity indicates there was never a situation [besides Fasi's] where a tenant was allowed in a space in the Cultural Plaza without any written lease. In 1984, the year that Fasi was elected Mayor of Honolulu, Fasi's rent dropped from a "base" rent of \$0.45 per square foot to a "gross" rent \$0.23 per square foot and remained at this price with no written lease for the following 12

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years. As demonstrated by Attachment 1, other similarly situated rental space in the Cultural Plaza increased exponentially over the same twelve year period (Fasi held office from 1984-1994).

This Office has not obtained independent evidence of the improvements to the Cultural Plaza bestowed by the Mayor's Office as described by the witness. But, correspondence to the Commission from the Coordination Council for North American Affairs ("CCNAA"), an arm of the Taiwanese government, reveals that Norman Yu, a resident alien who served as a high-level employee of China Airlines, Ltd. ("CAL") and the General Manager of Longevity from 1981-1984, was actively fundraising for Fasi and possibly obtained a position on the Honolulu City Government during Fasi's administration.¹⁰ This piece of information, along with the unusual circumstance of an oral lease for below fair market value rental prices, does buttress the statement by the witness of a *quid pro quo* relationship between Longevity and Fasi based on in-kind contributions in exchange for governmental favors.

2. Foreign National Nexus

Under 22 U.S.C. § 611(b), a corporation organized under the laws of any state within the United States whose principal place of business is within the United States is not a foreign principal and, accordingly, would not be a foreign national under 2 U.S.C. § 441e. Section 441e, however, also prohibits contributions by a foreign national through any other person.

11 C.F.R. § 110.4(a)(3). Because Longevity is controlled and funded by foreign national individuals who have acted as its primary decisionmakers and its initial source of capital,

¹⁰ This letter was obtained in MUR 2892. According to the CCNAA, Yu solicited a donation from this explicitly foreign national governmental organization for Mayor Frank Fasi.

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Longevity has necessarily acted as a vehicle through which foreign nationals provided prohibited in-kind contributions to a state and local candidate committee. *See* A.O. 1981-36.

As discussed *supra*, individuals who are foreign nationals may not participate in decisions made by domestic corporations regarding contributions, including in-kind contributions, to either Federal or nonfederal campaign committees and candidates. *See* MUR 3460 and A.O. 1990-8. This, in turn, requires an examination of the nationalities of the decision-makers, specifically the officers and directors, in instances where a domestic corporation is implicated. *See* A.O.s 1985-3, 1982-10, and 1989-20. Before turning to the officers and directors of Longevity, this brief will examine the management personnel of Longevity and the Cultural Plaza who exercised day-to-day control over the operations of the building and its tenants.¹¹

Recognizing that Section 441e prohibits contributions by a foreign national "through any other person" foreign nationals, including directors, officers, or other personnel of Longevity, may not participate in any decisions by Longevity to financially support Friends for Fasi or to contribute to other committees or campaigns for state or local office. Longevity's subpoena response dated January 9, 1998, reveals that at least two of Longevity's management personnel were foreign nationals. These foreign nationals, Karl C.P. Wang and Chang-Jung Tuan managed the Cultural Plaza, as Assistant General Manager and General Manager, respectively, from 1984

¹¹ In A.O. 1989-20, Kuilima, a wholly-owned domestic subsidiary of a foreign nation parent corporation, sought to make contributions in state and local elections through a committee to be set up by the subsidiary. "All of the directors and officers" of the subsidiary were foreign nationals. The subsidiary represented that its committee would "be governed by three persons, each of whom will be a United States citizen. These persons will exercise all decision-making authority with respect to the Committee." The subsidiary asserted that the committee's decisions would be made "independently" of the foreign national parent and, as such, the committee's decisions "will not be dictated or directed by the foreign national parent, the subsidiary or any of their officers or directors."

through 1995.¹² Wang was supervised by Tuan and both Wang and Tuan were given instructions, directions and orders from Longevity's board of directors. Furthermore, both Tuan and Wang supervised Louis C.L. Chang, the operations manager of the Cultural Plaza during the time in question. Wang and Chang's "duties and responsibilities...include[d] the day to day operations of dealing with tenants and dealing with the problems of tenants." Longevity Response dated February 6, 1997. Further, according to Longevity's subpoena response dated January 7, 1998 and correspondence produced by Longevity, Mr. Chang was responsible for negotiating leasing agreements with tenants, including Fasi, for space at the Cultural Plaza in 1981 and 1984, the year in which Fasi's rental rate dropped from \$1546.65 to \$800.00.¹³ While it is notable that Longevity's management of the Cultural Plaza was composed of foreign national personnel and management during the time in question, it is even more significant, as next discussed, that they received their instructions and were supervised by foreign nationals who mainly comprised the board of directors of Longevity.

Even a cursory review of Longevity's Articles of Incorporation and corporate by-laws reveals that foreign national participation in the operation of the Cultural Plaza appears unavoidable. As a preliminary matter, foreign national CAL executives comprised all but one of the original board of directors of Longevity (Szeto Fu, Chang Lin-Teh, Chi-Tao Shan, Sherman S.M. Wang, Jen Fie Tun, and Stanley S.C. Huang) and were responsible for funding the creation

The Commission stated that in order for the domestic company to make the proposed contributions, "no director or officer of the company or its parent who is a foreign national may participate in any way in the decision-making process with regard to making the proposed contributions."

¹² Information derived from Longevity's subpoena response dated January 9, 1998, indicates that Karl Wang became a naturalized citizen sometime during the time period February 1, 1991 through August 31, 1995.

¹³ This correspondence confirms that Chun-I Hsu, another manager at Longevity, was involved in rent negotiations as well.

of Longevity and, presumably, the purchase of the Cultural Plaza.¹⁴ The corporation at the time of its formation issued only one class of shares designated "common" shares. The total number of shares issued was 12,000. Of these 12,000 shares, 9,000 were resolved to be sold by the board. These shares were purchased as follows:

Szeto Fu, <i>CAL Chairman, 1978-84:</i>	5,000 shares for the payment of \$5,000,000
Chang Lin-Teh, <i>CAL President, 1977-88:</i>	3,855 shares for the payment of \$3,855,000
Sherman S.M. Wang, <i>Pres., Hwa-Mei Bank:</i>	50 shares for the payment of \$50,000
Jen Fie Tun, <i>Pres., Bank of Canton:</i>	75 shares for the payment of \$75,000
Stanley S.C. Huang, <i>CAL Vice Pres., 1975-87:</i>	20 shares for the payment of \$20,000

Longevity's by-laws, at Article II, Section 2, define the procedure by which the board is elected. A shareholder may cast one vote for every share that he owns. For example, based upon shareholder information discussed above, Szeto Fu would have cast 5,000 votes for his nominated choices whereas Mr. Huang would have cast only 20 votes. The candidates receiving the highest number of votes are elected. As discussed above, all of the original shareholders, excepting one, were CAL employees and all of them are foreign nationals and residents of the Republic of China. Consequently, these foreign nationals held absolute control and direction over the composition of Longevity's board of directors which, as discussed below, is likewise predominately comprised of foreign nationals.

Through its investigation, this Office has obtained Longevity's Articles of Incorporation for the years 1979 (California) and 1995 (Hawaii) and the annual filings for 1987, 1990, 1996, and 1997 listing the board of directors and their place of residence. This information discloses the following:

¹⁴ According to Longevity's initial subpoena response, Longevity has been the owner of the Cultural Plaza since May 11, 1979. Furthermore, a "Foreign Corporation Declaration" filed by Longevity in Hawaii indicates that the purchase of an \$8.5 million property, most likely the Cultural Plaza, is Longevity's purpose for doing business in Hawaii.

1979

Szeto Fu	Chairman of the Board	Republic of China
Chang Lin-Teh	President	Republic of China
Chi-Tao Shan	Vice President	Republic of China
Sherman S.M. Wang	Director	Republic of China
Jen Fie Tun	Director	Republic of China
Chock Tong Wong	Director	United States
Stanley S.C. Huang	Director	Republic of China

1987

Jung-Chun Chi	Chief Executive Officer and Director	Republic of China
Louis C.L. Chang	Secretary	United States
Bang-Chuan Wang	Chief Financial Officer	United States
Yueh Wu	Director	Republic of China
Ven-Chung Lee	Director	Republic of China

1990

Jung-Chun Chi	Chief Executive Officer and Director	Republic of China
Louis C.L. Chang	Secretary	United States
Bang-Chuan Wang	Chief Financial Officer	United States
Yueh Wu	Director	Republic of China
Hung-I Chiang	Director	Republic of China

1995

Stephen S.F. Chen	Chairman of the Board	Republic of China
Chou-Seng Tou	President and Director	Republic of China
Louis C.L. Chang	Secretary	United States
Shwu-Fuey Chu	Treasurer	United States
Sing-Chew Tam	Director	Republic of China
Hung-Tsao Chang	Director	Republic of China
Ting-Tu Yu	Director	United States
Chock-Tong Wong	Director	United States
Karl C.P. Wang	Director	United States

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1996

Wen-Hua Tzen	Chairman of the Board	Republic of China
Lyu Shun Shen	President and Director	Republic of China
Shwu-Fuey Chu	Treasurer	United States
Rex L. P. Fa	Secretary	United States
Ting-Tu Yu	Director	United States
Chock-Tong Wong	Director	United States
Hsu-Fu Huang	Director	Republic of China
C.J. Yang	Director	Republic of China
Ron-Jye Chen	Director	Republic of China

1997

Wen-Hua Tzen	Chairman of the Board	Republic of China
Lyu Shun Shen	President	Republic of China
Rex L.P. Fa	Secretary	United States
Shwu-Fuey Chu	Treasury	United States
Kai Wang	Director	United States
Chock-Tong Wong	Director	United States
Hsu-Fu Huang	Director	Republic of China
C.J. Yang	Director	Republic of China
Ron-Jye Chen	Director	Republic of China

Article II, Section 5 of Longevity's by-laws requires that "[t]he majority of directors shall constitute a quorum for the transaction of business...[n]o action...shall bind the corporation unless it receives the concurring vote of a majority of all directors present." Article II, Section 8 of the by-laws states that "[t]he property, affairs, and business of the corporation shall be managed by the Board of Directors." Moreover, according to Section 8, the Board of Directors "shall have the power to...appoint a general manager and such other managers....and to confer upon...them...such power and authority as it shall determine...for the transaction of business." Presumably, decisions to expend corporate treasury monies, as well as a variety of other matters, are all decisions required to be made by a majority vote of the board of directors. In fact, correspondence between Fasi and Longevity indicates that Longevity board approval is required for the contracting of a lease for space at the Cultural Plaza. Since a majority vote is required to

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conduct business, these decisions could not be made without the participation of the foreign national board members. Consequently, foreign national control of Longevity's board of directors, as well as the selection of its board of directors by the shareholders, and the board's subsequent participation in all of the Longevity's substantive decisions seems both clear and inevitable.

C. Summary

Based on the aforementioned investigation, this Office has gathered information and documentation which confirms the foreign national nexus essential to demonstrating the elements of a Section 441e violation by Longevity in this matter. As delineated above, Fasi's reduced rental payment over the span of twelve years qualifies as a "contribution in connection with an election" and there is definitive evidence of foreign national control and funding of Longevity, the owner of the Cultural Plaza.

Accordingly, the Office of General Counsel recommends that the Commission find probable cause to believe Longevity violated 2 U.S.C. § 441e by providing an in-kind contribution, in the form of reduced rental costs, to Fasi.

21-04-402-5083

III. GENERAL COUNSEL'S RECOMMENDATION

Find probable cause to believe that Longevity International Enterprises Corporation violated 2 U.S.C. § 441e.

Date

4/17/99


Lawrence M. Noble
General Counsel

Attachments

1. Chart, Commercial Rental Space in Cultural Plaza for years 1981-1997
2. Floor Plan of Cultural Plaza

21-04-402-5084

21-04-402-5085

Commercial Rental Space in Cultural Plaza, 1981-1987

Base Rent by Square Foot/Month per year																
Tenant/Company Names (Area in square feet)	Suite Number In Cultural Plaza	1981-83	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
(3,183 s.f.)	101-103				\$ 1.00	\$ 1.00	\$ 1.00	\$ 1.00	\$ 1.00	\$ 1.00	\$ 1.00	\$ 1.13	\$ 1.13	\$ 1.13	\$ 1.25	\$ 1.31 Option to renew thru
(3,524 s.f.)	105						\$ 0.85	\$ 0.85	\$ 0.85	\$ 0.91	\$ 0.97	\$ 1.04	\$ 1.11	\$ 1.19	\$ 1.27	
(3,437 s.f.)	106-107									\$ 0.94	\$ 1.03	\$ 1.03	\$ 1.08	\$ 1.13	\$ 1.19	
(5,190 s.f.)	108				\$ 0.80	\$ 0.80	\$ 0.88	\$ 0.88	\$ 0.88	\$ 0.95	\$ 0.95	\$ 0.95	\$ 1.00	\$ 1.00	\$ 1.00	\$ 1.00
(17,498 s.f.)	129						\$ 0.30	\$ 0.30	\$ 0.30	\$ 0.40	\$ 0.40	\$ 0.40	\$ 0.50	\$ 0.50	\$ 0.50	\$ 0.50
(3,610 s.f.)	201		\$ 0.30	\$ 0.30	\$ 0.40	\$ 0.50	\$ 0.60	\$ 0.70	\$ 0.75	\$ 0.75	\$ 0.75	\$ 0.75	\$ 0.75			
														\$ 1.00	\$ 1.05	\$ 1.10
(5,234 s.f.)	202									\$ 1.31	\$ 1.31	\$ 1.41	\$ 1.41	\$ 1.41		
(16,809 s.f.)	205							\$ 0.54	\$ 0.60	\$ 0.60	\$ 0.60	\$ 0.69	\$ 0.69	\$ 0.71	\$ 0.75	\$ 0.75
(6,246 s.f.)	206															
MEAN RENT PER YEAR			\$ 0.30	\$ 0.73	\$ 0.73	\$ 0.77	\$ 0.73	\$ 0.75	\$ 0.72	\$ 0.89	\$ 0.92	\$ 0.96	\$ 0.99	\$ 1.04	\$ 1.03	\$ 0.99
Friend's for Fasi Rent (Base Rent: 1981-1983; Gross Rent: 1984-1996) (3,437 s.f.)	203	\$0.45	\$ 0.23	\$ 0.23	\$ 0.23	\$ 0.23	\$ 0.23	\$ 0.23	\$ 0.23	\$ 0.23	\$ 0.23	\$ 0.23	\$ 0.23	\$ 0.23	\$ 0.23	\$ 0.23

ATTACHMENT
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